

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE LUIS ALEMAN-RAMOS,

Defendant.

Case No. 1:03-CR-243

Hon. Richard Alan Enslen

**ORDER**

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This matter is before the Court on Jose Luis Aleman-Ramos' Motion For an Extension of Time to Appeal. On February 22, 2006, the Court re-sentenced Defendant in light of *United States v. Booker*, 543 U.S. 220 (2005). An Amended Judgment entered against Defendant on February 24, 2006. Defendant filed his Notice of Appeal on April 18, 2006. Defendant then moved to extend the time period in which to file a notice of appeal on June 5, 2006.

Federal Rule of Appellate Procedure 4(b) controls the period during which a criminal defendant must file his notice of appeal. Under Rule 4(b), Defendant had 10 days from the entry of the Amended Judgment to file his notice of appeal. FED. R. APP. P. (4)(b)(1)(A)(i). This 10-day window, however, is not absolute as Rule 4(b)(4) provides for an extension:

Upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

Thus, “a district court has the discretion to consider a motion to extend the time for appeal beyond the 10-day deadline *if and only if* it is filed within 30 days after the 10-day deadline, or 40 days from the date of entry of judgment.” *United States v. Tarrant*, 158 F.3d 946, 947 (6th Cir. 1998)

(emphasis in original). Consequently, even if the Court were inclined to grant Defendant's request and extend the deadline to file a notice of appeal, it could have only done so up to April 5, 2006. In this case, Defendant did not make any representations evidencing his desire to appeal the Court's Amended Judgment until April 18, 2006, or 13 days too late.

**THEREFORE, IT IS HEREBY ORDERED** that Defendant Jose Luis Aleman-Ramos' Motion For an Extension of Time to Appeal (Dkt. No. 62) is **DENIED**.

DATED in Kalamazoo, MI:  
July 17, 2006

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE